

Exhibit D

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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

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CHARLES DEMPSEY, individually, and

L.D., by her Father and Natural

Guardian, Charles Dempsey,

Plaintiffs,

-against-

THE CITY OF ROCHESTER, a Municipal

entity, et al.,

Defendants.

- - - - - x

Video Conference

June 3, 2022

9:45 a.m.

EXAMINATION BEFORE TRIAL of P.O. ADAM  
GORMAN, a Defendant in the above-entitled action,  
taken by the Plaintiff, held at the above  
time and place, pursuant to Court Order,  
taken before Robyn Lehrmann, a Notary Public  
in and for the State of New York.

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2 A P P E A R A N C E S :

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4 ROTH & ROTH, LLP

Attorneys for Plaintiffs

5 192 Lexington Avenue, Suite 802

New York, New York 10016

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BY: ELLIOT SHIELDS, ESQ.

7

8 LINDA KINGSLEY, CORPORATION COUNSEL

Attorney for CITY OF ROCHESTER

9 30 Church Street

Rochester, New York 14614

10

BY: PEACHIE JONES, ESQ.

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18 S T I P U L A T I O N S

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20 IT IS HEREBY STIPULATED AND AGREED by

21 and among counsel for the respective parties

22 hereto, that the sealing and certification of

23 the within deposition shall be and the same

24 are hereby waived;

25 IT IS FURTHER STIPULATED AND AGREED

1 P.O. Adam Gorman

2 P.O. A D A M G O R M A N,

3 Having been first duly sworn by a Notary  
4 Public of the State of New York, was  
5 examined and testified as follows:

6 THE COURT REPORTER: Please  
7 state your name for the record.

8 THE WITNESS: P.O. Adam  
9 Gorman.

10 THE COURT REPORTER: Please  
11 state your precinct address for  
12 the record.

13 THE WITNESS: 185 Exchange  
14 Boulevard, Rochester, New York  
15 14614.

16 EXAMINATION BY

17 MR. SHIELDS:

18 Q Good morning, Officer Gorman.

19 A Good morning.

20 Q My name is Elliot Shields. I  
21 represent a father and daughter whose dog was  
22 shot and killed and I am going to ask you  
23 some questions today.

24 If there is anything that I ask  
25 you that you don't understand, please say so

1 P.O. Adam Gorman  
2 for production of those  
3 certificates of those, please,  
4 Ms. Jones. And we'll follow up  
5 in writing about that.

6 MS. JONES: Yes. I thought  
7 he said he didn't know if there  
8 were certificates.

9 MR. SHIELDS: I believe that  
10 is what he said. That is why  
11 the production called for to the  
12 extent that there is anything  
13 else.

14 Q I will go over some of your  
15 evaluation again from bottom to top.

16 So this one is for the period  
17 November 2017, to November 1st to the 30th.

18 So my first question is, this is  
19 only a one-month period. Is that because you  
20 were on probation still?

21 A This looks like a -- oh, okay.  
22 Yes. This is a monthly probation, yes. When  
23 you're on probation, they do monthly  
24 evaluations.

25 Q So my question is about the

1 P.O. Adam Gorman

2 assault. Is that what you are saying?

3 A Based on the penal law, simple  
4 marijuana, no. But a large amount of  
5 Fentanyl, yes, it is more serious under the  
6 penal law.

7 Q Did you suspect that the person  
8 that you were facing on October 19th, 2018,  
9 possessed Fentanyl or marijuana or something  
10 else?

11 A I believe they possessed drugs.

12 Q Are all drugs the same?

13 A They are not.

14 Q There is not a nationwide  
15 epidemic of marijuana overdosing right now?

16 A There is not.

17 Q But there is a nationwide,  
18 specifically in Monroe County, of Fentanyl  
19 overdoses?

20 A Yes, there is.

21 Q So, at the time, you know, if  
22 you suspected this person had Fentanyl, that  
23 might have been a more serious drug crime  
24 than suspicion of marijuana, correct?

25 A That is correct.

1 P.O. Adam Gorman  
2 run through the backyard and Kosciusko Street  
3 as you anticipated that is what they would do  
4 and as they came through the yard your plan  
5 was to go and apprehend them?

6 A Correct.

7 Q So that is what we thought with  
8 you running through this yard here and  
9 apprehending this guy right here, right?

10 A Correct.

11 Q We hit pause, for the record, at  
12 1707 and 13 seconds. There is activity 15  
13 seconds into the video. And I will hit play  
14 again. So I am just going to pause there.  
15 So you said you did it yesterday too.

16 Did you guys do a similar thing  
17 the day before?

18 A Similar, yes. We were familiar  
19 with these individuals at the time selling on  
20 that corner, correct. Yes.

21 Q What happened on the day before?

22 MS. JONES: Objection.

23 A From my recollection, on our  
24 arrival they had ran south to Sobieski Street  
25 through the same yards.

1 P.O. Adam Gorman

2 Q So that is how you guys devised  
3 a plan on this day?

4 A Correct.

5 Q Do you know what the officers on  
6 Kosciusko Street did?

7 A I do not.

8 Q On the previous day, had you  
9 arrived on Kosciusko Street and witnessed  
10 them running?

11 A Yes.

12 Q So on the previous day, what  
13 happened? Did you drive your car and then  
14 park and they ran or something else?

15 MS. JONES: Objection.

16 A I vaguely remember just pulling  
17 up and upon police arrival it was immediate  
18 flight.

19 Q Did you chase them through the  
20 yards on the previous day as well?

21 MS. JONES: Objection.

22 A I don't recall.

23 Q So you might have, but you don't  
24 recall?

25 A Correct.

1 P.O. Adam Gorman

2 A Yes.

3 Q Right before I paused, did you  
4 hear yourself ask Officer Algarin to  
5 backtrack?

6 A Yes.

7 Q So if it took you about 15  
8 seconds to get from Sobieski Street to the  
9 back of that fence, would it be fair to say  
10 that it probably would take a similar amount  
11 of time to get from the backyard to the front  
12 of the house on Kosciusko Street?

13 MS. JONES: Objection.

14 A Similar time frame, yes.

15 Q So for at least a minute and 45  
16 seconds, right, we know that the individual  
17 that you apprehended was present in this  
18 backyard, correct?

19 A Correct.

20 Q So for at least a minute and 45  
21 seconds, there would have been any potential  
22 contraband located in the backyard at the  
23 house next door that was owned by my client,  
24 correct?

25 A Correct.



1 P.O. Adam Gorman

2 noticed, the doghouse?

3 A Not particularly, no.

4 Q You didn't really think about  
5 that before you came into this yard?

6 A No.

7 Q I will hit play. We're at two  
8 minutes and three seconds into the video, or  
9 170903. Let me ask you about that statement  
10 that you just made.

11 Do you know who his cousins are?

12 MS. JONES: Objection.

13 A Not by name.

14 Q Were you familiar with that guy  
15 that you had stopped?

16 A Yes. I've seen him in the area  
17 before.

18 Q Did you know his name?

19 A Not offhand, no.

20 Q Do you know who his cousins  
21 were?

22 MS. JONES: Objection.

23 A Again, all the personnel hanging  
24 out in that area that day were all familiar  
25 faces and known to stand there and sell

1 P.O. Adam Gorman

2 drugs.

3 Q Do you know what his cousins  
4 look like?

5 A Not anymore.

6 Q Do you know why you said to him  
7 whether it is you or your cousins?

8 A Just to talk.

9 Q Do you think his cousins were  
10 other, I don't know, black men?

11 MS. JONES: Objection.

12 A Do I think or do I know?

13 Q Sure. Do you know? I mean, I  
14 asked you if you knew who his cousins were.

15 A Yes. I know that people I seen  
16 on that day were male blacks.

17 Q Do you know if the other guy  
18 that was stopped was his cousin?

19 A The term I'd identify for  
20 everyone here, the term "cousin" is very  
21 commonly used as pal, friend, buddy,  
22 acquaintance in the City of Rochester. It  
23 does not have to be direct familial  
24 relationship to be a cousin or aunt or uncle.

25 Q Did you ever review this

1 P.O. Adam Gorman

2 individual and other people ran from the  
3 police when you pulled up.

4 Is that fair to say?

5 A Correct.

6 Q The fact that that happened two  
7 days in a row, does that go under the  
8 totality of the circumstances evaluation of  
9 whether you had suspicion to stop him or  
10 suspicion or probable cause to conduct a  
11 search?

12 A That it does.

13 Q I will keep playing now.

14 In the moment when he was  
15 screaming about his daughter, what were you  
16 thinking?

17 A I didn't hear daughter. I heard  
18 dog.

19 Q I am going to rewind a little  
20 bit.

21 Did you hear him say "my  
22 daughter"?

23 A I did.

24 Q Were you aware that his daughter  
25 was watching the entire incident from right

1 P.O. Adam Gorman

2 inside the back door there?

3 A No, I was not.

4 Q Did you ever come to learn that  
5 after the incident?

6 A I did.

7 Q I just want to rewind a little  
8 bit and ask you a couple of other questions.  
9 We are rewinding to 259 in the video, or  
10 170958 seconds. He asked you to leave his  
11 property, but did you ever do that? Did you  
12 ever leave his property?

13 A No.

14 Q And why not?

15 A It was an active scene at this  
16 point.

17 Q By active scene you mean because  
18 Officer Algarin had shot Tesler two times?

19 A Correct.

20 I am assuming by Tesler you mean  
21 the dog.

22 Q His pet dog, Tesler, yes.

23 So is that like a police  
24 department policy, once a firearm is  
25 discharged, that makes it like an active

1 P.O. Adam Gorman

2 MR. SHIELDS: Yes. Let's  
3 keep going, so we can,  
4 hopefully, finish this up after  
5 they get back.

6 Q Officer Gorman, in this  
7 situation, right, that we watched in the  
8 body-worn camera video where Officer Algarin  
9 jumped the fence in my client's yard, you  
10 guys obviously didn't have a warrant, right?

11 A Correct.

12 Q The exception for the other  
13 warrants would have had to apply what we  
14 covered earlier, right?

15 A Correct.

16 Q Why didn't you just ask Officer  
17 Algarin to walk to the front door to ask for  
18 permission and knock on the door? Did you  
19 ever think about that?

20 A At the time, it did not cross my  
21 mind.

22 Q So earlier you had described  
23 that on a prior day you had run a similar  
24 operations where these same individuals had  
25 run from you on Koskusco Street.

1 P.O. Adam Gorman

2 A No, I don't think so, not during  
3 the foot chase.

4 Q How often during those foot  
5 chances did you end up backtracking and going  
6 through the route that you chase the person  
7 to look for any discarded contraband?

8 A On my personal foot chases are  
9 you asking?

10 Q Yes. I am just asking about  
11 your experience, you know, what you have  
12 done.

13 A I would say the majority of the  
14 time.

15 Q Would it be fair to say that a  
16 majority of the time some of those times at  
17 least would require you to jump over a fence  
18 similar to what happened in this instance?

19 A Yes.

20 Q In any of those other instances,  
21 have you ever gone to the property owner's  
22 front door and asked for consent to enter  
23 their property?

24 A Prior to this date, not that  
25 comes to mind.